

CUSTOMER NO.: 24498
Serial No. 09/898,150

Reply to Notice of Non-compliant amendment dated: 8/18/06
Response dated: 8/30/06

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REMARKS

AUG 30 2006

In the Office Action, the Examiner noted that claims 22-39 are pending in the application and that claims 22-39 stand rejected. By this response claims 28 and 30 are cancelled and claims 22, 26, 31, 36 and 38 are amended to more clearly define the invention of the Applicant and to correct for informalities pointed out by the Examiner and not in response to prior art. In addition, claim 40 was added.

In view of the amendments presented above and the following discussion, the Applicant respectfully submits that none of these claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102 or obvious under the provisions of 35 U.S.C. § 103. Furthermore, the Applicant also submits that all of these claims now satisfy the requirements of 35 U.S.C. §112. Thus the Applicant believes that all of these claims are now in allowable form.

Rejections

A. 35 U.S.C. § 112

The Examiner rejected claims 22-28 and 30-38 under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. The Examiner states that the claim contains subject matter which was not described in the specification in such a way to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. The Examiner specifically states that claims 22, 31 and 38 each recites the limitation of "wherein the identification data of the optical disc medium is read before fine focusing adjustment or track regulation are adjusted" and that the limitation is not defined in the specification.

In response, the Applicant has herein deleted the limitation objected to by the Examiner from claims 22, 31 and 38. Having done so, the Applicant respectfully submits that the basis for the Examiner's rejection of claims 22-28 and 30-38 has been removed and respectfully requests that the Examiner's rejection to claims 22-28 and 30-38 be withdrawn.

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B. 35 U.S.C. § 112

The Examiner rejected claims 22-28 and 30-38 under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement. The Examiner states that the claim contains subject matter which was not described in the specification in such a way to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner specifically states that claims 22, 31 and 38 each recites the limitation of "wherein the identification data of the optical disc medium is read before fine focusing adjustment or track regulation are adjusted" and that the limitation is not defined in the specification.

In response, the Applicant has herein deleted the limitation objected to by the Examiner from claims 22, 31 and 38. Having done so, the Applicant respectfully submits that the basis for the Examiner's rejection of claims 22-28 and 30-38 has been removed and respectfully requests that the Examiner's rejection to claims 22-28 and 30-38 be withdrawn.

C. 35 U.S.C. § 102

The Examiner rejected claims 22-24, 27-35 and 37-38 under 35 U.S.C. § 102(b) as being anticipated by Bakx (U.S. Patent 5,072,435). The rejection is respectfully traversed.

The Examiner alleges that regarding claim 22, Bakx discloses a method comprising all of the aspects of the Applicant's invention. The Applicant respectfully disagrees.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)) (emphasis added).

The Applicant submits that the Bakx reference fails to teach, suggest or disclose each and every element of at least the invention as recited in the Applicant's independent claims, including claim 22. More specifically, it is widely known to those skilled in the art in the relevant field, that the light intensity

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appropriate for reading optical media is orders-of-magnitude smaller than the intensities for writing. In contrast to the invention of the Applicant, Bakx teaches that the "adjustment procedure" and "optimisation" all relate to the writing process. Furthermore, there is absolutely no teaching, suggestion or disclosure in Bakx that the reading process would need any optimisation or adjustment. On the contrary, Bakx, in column 3/lines 21 to 28, explicitly states that "the information recording device comprises a customary read/write head (...), a customary positioning system (...) (and) a customary control unit". Also, in column 7/line 51, Bakx describes that for recording ("providing a record carrier with an information pattern"), the carrier is scanned "with a radiation beam whose intensity, I , is switched between a low level, I_1 , which produces no changes in reflection, and a high write level, I_2 , which produces a change in reflection". Bakx then explains that the length of "effects 58" read back from test recordings "strongly depends on the write intensity, I_2 " (See Bakx, col. 8, lines 15-16); that "an accurate adjustment of the write intensity is required" (See Bakx, col. 8, lines 19-20); and that "an optimum write intensity can be obtained by..." (See Bakx, col. 8, lines 37-38).

Most prominently, in col. 10, lines 60-68, Bakx explicitly states "Depending on the control signals received from the control unit 5, the driver circuit 8 sets the intensity of the generated beam 107a to a constant low intensity, I_1 , or the driver circuit 8 switches the intensity of the beam between the low level, I_1 , and the write level, I_2 , in conformity with the EFM modulated signal received from the EFM modulator 113. Moreover, the write level, I_2 , can be adjusted by the control unit 5."

In the amended independent claims provided herein, and specifically claim 22, the Applicant has narrowed the limitation of "adjustment values" from the rather broad "associated with parameter values for reading (...) and writing" into "associated with tracking or focus control for reading (...) and writing", as supported by at least the Applicant's Specification on page 4, lines 22-37.

In contrast to Bakx, the claims of the Applicant no longer rely upon the claim limitations of "detecting the information item before read readiness is achieved". That limitation has been deleted herein in claims 22, 31, and 38. The Applicant submits that the Examiner should allow such an amendment because the first filed

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version of claims did not contain the limitation either. The amended claims also incorporate the limitations of claim 28 into 22.

The Applicant has amended the "reading the information item" back to "detecting ...", as in previous versions of claims and as it is disclosed at least in the Applicant's Specification on page 4, line 9. In addition, claim 26 was amended to specify the limitation of "Using BCA, coarse focus and position, read ID, then fine adjust". The corresponding claims were also amended to include "reading the BCA data under the displacing and coarse focusing" to describe that the reading takes place during the previous two steps. Such amendments are supported in the Applicant's Specification at least on page 5, line 23 through page 6, line 7 and on page 7, lines 19-38.

In summary, in the Applicant's amended claim set, the claim element now reads "determining if adjustment values associated with tracking or focus control for reading from and writing to..." and Bakx does not disclose this claim element. There are numerous quotations in Bakx that the "adjustment procedure" and "optimisation" all relate to the writing process. There is not a single reference or quote in Bakx even hinting that the reading process would need any optimisation or adjustment. On the contrary, in (column/line) (3/21~28), Bakx explicitly states that "the information recording device comprises a customary read/write head (...), a customary positioning system (...) (and) a customary control unit". There is teaching or suggestion in Bakx referring to adjustment values associated with tracking or focus control.

As such and at least because the teachings of Bakx teach away from the invention of the Applicant and because Bakx fails to teach, suggest or disclose at least each and every element of the Applicant's claimed invention, arranged as in the claim as required for anticipation, the Applicant respectfully submits that the teachings and disclosure of Bakx do not anticipate the Applicant's invention, at least with respect to amended claim 22.

Therefore, the Applicant submits that for at least the reasons recited above independent claim 22 is not anticipated by the teachings of Bakx and, as such, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

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Likewise, independent claims 31 and 38 recite similar relevant features as recited in the Applicant's independent claim 22. As such, the Applicant submits that for at least the reasons recited above independent claims 31 and 38 are also not anticipated by the teachings of Bakx and also fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

Furthermore, dependent claims 23-24, 27, 32-35, 37 and 40 depend either directly or indirectly from independent claims 22, 31 and 38 and recite additional features therefor. As such and for at least the reasons set forth herein, the Applicant submits that dependent claims 23-24, 27, 32-35, 37 and 40 are also not anticipated by the teachings of Bakx. Therefore the Applicant submits that dependent claims 23-24, 27, 32-35, 37 and 40 also fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

E. 35 U.S.C. § 103

The Examiner rejected claim 25 under 35 U.S.C. § 103(a) as being unpatentable over Bakx in view of Scibora (U.S. Patent 6,366,544). The rejection is respectfully traversed.

The Examiner applied Bakx for the rejection of claim 25 as applied above for the rejection of claim 22. As described above and for at least the reasons described above, Bakx fails to teach, suggest or anticipate the Applicant's, claim 22. As such, the Applicant respectfully submits that at least because Bakx fails to teach, suggest or anticipate the Applicant's claim 22, Bakx also fails to teach, suggest, anticipate or make obvious the Applicant's claim 25, which depends directly from claim 22 and recites additional features thereof.

In addition, the Applicant submits that the teachings of Scibora fail to bridge the substantial gap between the Applicant's claim 22 and the teachings of Bakx. More specifically, Scibora teaches a universal compact disc (CD) player having the ability to decode and play an encoded audio file residing on a CD, regardless of the particular encoding algorithm used to encode the audio file. However, Scibora absolutely fails to teach, suggest, anticipate or make obvious at least a method for

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reducing an initialization time of an apparatus for reading from and/or writing to an optical recording medium including at least "determining if adjustment values associated with tracking or focus control for reading from and writing to..." as taught in the Applicant's Specification and claimed in at least the Applicant's claim 22.

As such, and at least because any combination of Bakx and Scibora fail to teach, suggest, anticipate or make obvious the Applicant's claim 22 for at least the reasons described above, the Applicant further submits that Bakx and Scibora, alone or in any allowable combination, also fail to teach, suggest, anticipate or make obvious the Applicant's claim 2, which depends directly from the Applicant's claim 22.

Therefore, the Applicant submits that dependent claim 25, as it now stands, fully satisfies the requirements of 35 U.S.C. § 103 and is patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

F. 35 U.S.C. § 103

The Examiner rejected claims 26 and 36 under 35 U.S.C. § 103(a) as being unpatentable over Bakx in view of Shim (U.S. Patent 6,608,804). The rejection is respectfully traversed.

The Examiner applied Bakx for the rejection of claims 26 and 36 as applied above for the rejection of claims 22 and 31. As described above and for at least the reasons described above, Bakx fails to teach, suggest or anticipate the Applicant's claims 22 and 31. As such, the Applicant respectfully submits that at least because Bakx fails to teach, suggest or anticipate the Applicant's claims 22 and 31, Bakx also fails to teach, suggest, anticipate or make obvious the Applicant's claims 26 and 36, which depend directly from claims 22 and 31, respectively, and recite additional features thereof.

In addition, the Applicant submits that the teachings of Shim fail to bridge the substantial gap between the Applicant's claims 22 and 31 and the teachings of Bakx. More specifically, Shim teaches a disk having unique code for identifying its type for optical disk player and method for discriminating types thereof. In Shim, a

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BCA (Burst Cutting Area) code including a unique disk code indicating the type of a disk is written in a BCA code area of the disk. If the disk is mounted into the optical disk player, the optical disk player reads data written in the BCA code area, extracts the disk code contained in the read data, and confirms the type of the disk corresponding to the extracted disk code by retrieving a disk code table in which disk codes corresponding to the types of disks are mapped. However, Shim absolutely fails to teach, suggest, anticipate or make obvious at least a method for reducing an initialization time of an apparatus for reading from and/or writing to an optical recording medium including at least "determining if adjustment values associated with tracking or focus control for reading from and writing to..." as taught in the Applicant's Specification and claimed by at least the Applicant's claims 22 and 31.

As such, and at least because any combination of Bakx and Shim fail to teach, suggest, anticipate or make obvious the Applicant's claims 22 and 31 for at least the reasons described above, the Applicant further submits that Bakx and Shim, alone or in any allowable combination, also fail to teach, suggest, anticipate or make obvious the Applicant's claims 26 and 36, which depend directly from the Applicant's claims 22 and 31, respectively.

Therefore, the Applicant submits that dependent claims 26 and 36, as they now stand, fully satisfy the requirements of 35 U.S.C. § 103 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

Conclusion

Thus the Applicant submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. § 102 or obvious under the provisions of 35 U.S.C. § 103. Furthermore, the Applicant also submits that all of these claims now satisfy the requirements of 35 U.S.C. §112. Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

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If however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion, it is respectfully requested that the Examiner telephone the undersigned.

AUG 30 2006

Please charge any unpaid, additional fees to Deposit Account No. 07-0832.

Respectfully submitted,

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